

**THE DRAIN CODE OF 1956 (EXCERPT)**  
**Act 40 of 1956**

**280.154 Receipt of bids and review of apportionment of benefits; publication and mailing of notice; affidavit of mailing; failure to receive notice; contents of notice; computation of cost; adjournment; review; appearances; duty of county drain commissioner; apportionment of benefits against state trunk line highway; notices; review; finality.**

Sec. 154. (1) The commissioner shall give notice as described in subsection (3) for the receiving of bids for the construction of the drain and for the holding of a public meeting to review the apportionment of benefits. The meeting shall be not less than 5 nor more than 30 days after the date set for receiving bids.

(2) The notice under subsection (1) shall be given by publication of at least 2 insertions in a newspaper published and of general circulation in the county. The first publication shall be at least 10 days before the date set for receiving bids.

(3) The drain commissioner shall also send the notice under subsection (1) by first-class mail at least 10 days before the date of the meeting to review the apportionment of benefits, to each person whose name appears upon the last city or township tax assessment roll as owning land within the special assessment district, at the address shown on the roll. If an address does not appear on the roll, then notice need not be mailed to the person. The drain commissioner shall make an affidavit of the mailing and shall recite in the affidavit that the persons to whom the notice was mailed constitute all of the persons whose names and addresses appear upon the tax rolls as owning land within the particular special assessment district. The affidavit is conclusive proof that notice was mailed to each person to whom notice is required to be mailed. If notice has been sent by first-class mail as provided in this section, the failure to receive notice by mail does not constitute a jurisdictional defect invalidating a drain proceeding or tax. If the board of determination determines that the drain is necessary for the protection of the public health and that the whole cost of the drain, except that part which may be apportioned for benefits to highways, shall be apportioned to municipalities, then mailing of individual notices to persons owning land within the special assessment district as provided in this subsection is not required.

(4) The notice under subsection (1) shall be personally served on the county clerk and 1 or more members of the road commission of a county or road district, the supervisor of a township, the mayor of a city, and the president of a village to be assessed at large.

(5) The notice under subsection (1) shall contain all of the following:

(a) The date, time, and place of receiving bids.

(b) The date, time, and place of the meeting to review the apportionment of benefits.

(c) A statement that, at the meeting to review the apportionment of benefits, the drain commissioner will have available to review the tentative apportionments against parcels and municipalities within the drainage district.

(d) A statement that drain assessments against land will be collected in the same manner as property taxes.

(e) A statement that if drain assessments against land are collected by installment, the land owner may pay the assessments in full with any interest to date at any time and thereby avoid further interest charges.

(f) The name of each county, township, city, or village to be assessed at large.

(g) A description of the land constituting the special assessment district for the drain. The description may be stated by designating the boundaries of the special assessment district by streets, highways, parcels, or tracts of land or by describing the tracts or parcels of land constituting the district. A tract or parcel need not be subdivided beyond the point where the whole of the tract or parcel is within the drainage district.

(h) The name or number of the drain.

(i) The number and length of sections, the average depth and width of each section, and if the drain will be a closed drain, the amount and specifications of all tile or pipe required.

(j) The location, number, type, and size of all culverts and bridges.

(k) The conditions upon which the contract will be awarded.

(6) The notice under subsection (1) need not contain minutes of survey or a table of cuttings. These shall be kept on file in the office of the drain commissioner.

(7) Bids shall be received and the total cost of the drain shall be computed before the time set for review of the apportionment. The computation shall be open to inspection. If the computation is not completed before the day of review, the review may be adjourned from time to time, not more than 20 days in all, for the completion of the computation, or a new hearing may be called with similar notice, by publication and service at least 10 days before the hearing. If the contracts on which the computation was based are not executed and new contracts are let at a higher price, the computation shall be corrected and a new review held with a similar notice. At the date, time, and place fixed in the notice, or at another date, time, and place to which the

county drain commissioner may adjourn the hearing, the apportionment of benefits and the lands constituting the special assessment district shall be subject to review for at least 1 day. The review shall be held open from 9 a.m. until 5 p.m. At the review, the county clerk or the county road commission may appear on behalf of the county or a road district; the supervisor of a township may appear on behalf of a township; the mayor or an officer of the city designated by the mayor may appear for a city; the president may appear on behalf of a village. At the review the county drain commissioner shall hear the proofs and allegations, shall carefully reconsider and review the description of land comprised within the special assessment district, the several descriptions and apportionment of benefits, and shall define and equalize the land as is just and equitable.

(8) If an apportionment of benefits is made against a state trunk line highway, unless the director of the state transportation department consents in writing to the apportionment, the drain commissioner, at least 20 days before the review on the highway, shall notify by registered mail the director of the state transportation department of the percentage apportioned against the highway and the date, time, and place fixed for a review of apportionment of benefits. If the director of the state transportation department desires to have the apportionment of benefits reviewed by the director of the department of agriculture, the director of the state transportation department, within 10 days from the receipt of the notice, shall file with the drain commissioner an objection to the apportionment. The drain commissioner shall notify the director of the department of agriculture of the date, time, and place fixed for the review of apportionments, and at the meeting the director of the department of agriculture, or a deputy of the director, shall review the apportionment made against the state trunk line highway and listen to the proofs and allegations of the parties, and may view the highway benefited. The action and decision on the apportionment under this subsection, when reduced to writing, is final.

**History:** 1956, Act 40, Imd. Eff. Mar. 28, 1956;—Am. 1957, Act 61, Imd. Eff. May 20, 1957;—Am. 1961, Act 212, Imd. Eff. June 6, 1961;—Am. 1963, Act 215, Imd. Eff. May 17, 1963;—Am. 1963, Act 228, Eff. Sept. 6, 1963;—Am. 1965, Act 138, Eff. Mar. 31, 1966;—Am. 1978, Act 235, Imd. Eff. June 15, 1978;—Am. 2010, Act 339, Imd. Eff. Dec. 21, 2010.

**Popular name:** Act 40